IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

MISC. CIVIL APPLICATION NO. 107 OF 2007

Mrs. Hema Yeshwant Divekar ... Petitioner

Vs.

Mr. Yeshwant Ravikumar Divekar ... Respondent

Mr.Dinesh K.Jain, Advocate, for the petitioner

Mr.S.K.Sthalekar, Advocate, for the respondent

CORAM: J.H.BHATIA,J.

DATE: 17th December,2007.

P.C.

1. Heard learned Counsel for the parties.

2. The petitioner is the wife of the respondent. They were married on 28.7.2004. They are having a daughter who was born on 9.12.2006. The relations between the husband and wife were strained and the respondent-husband filed Petition No.A-666 of 2007 before the Family Court, Pune.

3. By this Application, the wife seeks that petition to be transferred to the Family Court, Bandra. It appears that the wife has also filed Petition No.A-2090/2007 before the Family Court, Bandra for restitution of conjugal rights. Since same evidence may be required to be led by both the parties in both the matters, it will be necessary that both the petitions should be heard and disposed of together. It is pointed out by the learned Counsel for the petitioner that the respondent has been granted access to the child on first and third Saturdays every month as per the order passed by the Family Court,Pune and for that purpose, he has to come to Mumbai to meet the child. Therefore, if the petition filed by him is transferred from Pune to Mumbai, it will not cause much inconvenience to him. Care may be taken that dates may be given by the Court on such Saturdays so that he is not required to travel frequently. For the purpose of this petition, the petitioner-husband will have to travel from Pune to Mumbai alone. The wife will have to travel from Mumbai to Pune along with the small child. Therefore, the balance of convenience is in favour of the wife.

4. The learned Counsel for the respondent points out that on request made by the petitioner, the Family Court, Pune, has already granted travelling costs to her

and therefore, that should take care of her expenses. In my opinion, if the matter is transferred from Pune to Mumbai, she may not be entitled to get the said travelling allowance.

5. In view of the above circumstances, Petition No.A-666 of 2007 filed by the respondent stands transferred from the Family Court, Pune to the Family Court, Bandra before which the Petition No.A-2090 of 2007 filed by the present petitioner is also pending. The learned Judge, Family Court, shall, as far as possible, fix dates of the matter on first and third Saturdays when the responeent-husband is required to come to Mumbai to have access to the child so that he may not be required to travel frequently. After transfer of the matter from Pune to Mumbai, the wife will not be required to travel from Mumbai to Pune and therefore she will not be entitled to travelling expenses which were earlier granted by the Family Court, Pune.

(J.H.BHATIA,J.)